92-492

No. _____

Supreme Court, U.S.
FILED
AUG 4 1992
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

JOSEPH WATFORD
DORIS F. WATFORD,
Petitioners,
v.
UNITED STATES
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Did the Petitioners proposals for the use of cash collateral meet the "plain meaning" requirements of Section 11 *U.S.C.* 1205(b) (1) and (2) as envisioned by this Court in the case *K Mart v. Cartier,* Inc. 486 US 281, 291 108S.CT 1811, 1817, 100 L Ed 313 (1988).

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No. _____

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JOSEPH WATFORD
DORIS F. WATFORD,
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v.
UNITED STATES
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Joseph W. and Doris F. Watford respectfully pray that a writ of certiorari issue to review the decision of the Eleventh Circuit entered in the above styled case on May 6, 1992. In that decision, they upheld the judgement of the United States District Court for the Middle District of Georgia which held that the Appellants did not provide adequate protection pursuant to 11 *U.S.C.* 1205 (b). Said decision is clearly erroneous in light of the "plain meaning" doctrine as held by this Court in *K Mart Corp.* v. *Cartier, Inc.* 486 US 281, 291 108S.CT 1811, 1817, 100 L Ed 313 (1988).

OPINIONS BELOW

The memorandum opinion and order of the United States Court for the Middle District of Georgia dated May 29, 1991 is not officially reported and appears as Appendix A ("App A") hereto. The decision of the United States Court of Appeals for the Eleventh Circuit dated May 6, 1992 is not officially reported and appears as Appendix B ("App B") hereto.

JURISDICTION

The judgement of the panel at the Eleventh Circuit Court of Appeals was entered on May 6, 1992. The jurisdiction of this Court is invoked under 28 *U.S.C.* 1254 (1).

STATUTES INVOLVED

11 *U.S.C.* 1205 (b) (1) and (2) to wit:

In a case under this Chapter, when adequate protection is required under Section 362, 363 or 364 of this title of an interest or entity in property, such adequate protection may be provided by -

(1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under Section 362 of this title, use, sale or lease under Section 363 of this title, or any grant of a lien under Section 364 of this title result in a decrease in the value of property securing a claim or of an entity's ownership interest in property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value or property securing a claim or of an entity's ownership interest in property;

(3) paying to such entity for the use of farm land the reasonable rent customary in a community where the property is located, based on rental value, net income value and earning capacity of the property; or

(4) granting such other relief other than entitling such entity to compensation allowable

under Section 503 (b) (1) of this title as an administrative expense as to adequately protect the value of the property securing a claim or of such entity's ownership interest in property.

STATEMENT OF THE CASE

The Debtors after filing their Chapter 12 petition filed a Motion to use Cash Collateral. This case to received from the sale of approximately eleven thousand (11,000) bushels of soy beans. The Appellee, the COMMODITY CREDIT CORPORATION, had a security interest in the proceeds of said crop totaling Fifty-eight Thousand Dollars ($58,000.00). The Appellants contend that this cash collateral is necessary for them to reorganize his farming operation. Thus, pursuant to the terms of 11 *U.S.C.* 1205(b) the Appellant offers the COMMODITY CREDIT CORPORATION as adequate protection the following items: (1) an annual cash payment of Nine Thousand Dollars ($9,000.00), which is an installment on a 10 year note, (2) a Certificate of Deposit to cover a year's shortfall in any annual payment, (3) an insurance policy to cover any annual shortfall in the annual payments. Further, the Appellant offered (4) a replacement lien which would attach to the proceeds of the crabbing operation via dock receipts as is custom in the trade, to insure that the interest of the COMMODITY CREDIT CORPORATION were protected. Consequently, the Appellants believe that they have provided the adequate protection required by Section 11 *U.S.C.*, Section 1205 in that they have at all times, by his proposals for adequate protection, protected the value of the COMMODITY CREDIT CORPORATION'S interest while providing himself with the funds he feels are required to reorganize his farming operation. In fact, they

have provided both cash payments and replacement liens which far exceed the requirements of 11 *U.S.C.* 1205 (b) (1) and (2) and the current case law. The Court of Appeals for the Eleventh Circuit disagreed on May 6, 1992. Hence this petition for a writ.

ARGUMENT

The Appellants contend that they have met the requirements of 11 *U.S.C.* 1205 (b), to show this we must review 11 *U.S.C.* 1205 to determine by its terms what is required of the Debtor in order for the Debtor to be successful in his motion for use of cash collateral.

11 *U.S.C.* 1205 provides:

> In a case under this Chapter, when adequate protection is required under Section 362, 363 or 364 of this title of an interest or entity in property, such adequate protection may be provided by -
>
> (1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under Section 362 of this title, use, sale or lease under Section 363 of this title, or any grant of a lien under Section 364 of this title result in a decrease in the value of property securing a claim or of an entity's ownership interest in property;
>
> (2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value or property securing a claim or of an entity's ownership interest in property;

(3) paying to such entity for the use of farm land the reasonable rent customary in a community where the property is located, based on rental value, net income value or earning capacity of the property; or

(4) granting such other relief other than entitling such entity to compensation allowable under Section 503(b) (1) of this title as an administrative expense as to adequately protect the value of the property securing a claim or of such entity's ownership interest in property.

This section replaces 361 which is applicable in Chapter 11 cases. However, in Chapter 12, Section 1205(b) provides simply that the debtor needs to compensate the creditor for any decrease in the value of the creditors collateral which will, or may, occur. This compensation, according to the Code, can take the form of either cash payment or replacement liens. Section 11 *U.S.C.* 1205(b) (1) and (2). To that end, the Appellants' have proposed a use for the cash collateral which they contend is crucial for the viability of their plan of reorganization.

The cash in question consists of approximately $58,000.00 which is presently being held by the Bankruptcy Court pending the outcome of this appeal. To adequately protect the creditor, the Appellants have proposed a combination of both replacement liens and cash payments to protect the creditor's interest.

However, before we analyze the quality and scope of the adequate protection provided the Creditor, by the Appellants we must again review the purposes for which the Debtors-Appellants have moved for the use of the cash collateral.

The Appellants have in an effort to increase their income in order to provide funds for the reorganization of their farming operation have been engaged in the harvesting of aquatic products, namely, stone crabs. The Appellants operation is located in Florida on the Gulf of Mexico near Cedar Key. The State of Florida regulates the harvesting of the animals very closely. The season lasts approximately six (6) months from October to April annually. Each stone crabber is licensed by the State of Florida. Each licensee is limited to the use of 600 crab traps per year. Each trap will hold one pound of stone crabs. Only the large claw of the crab is taken the rest of the animal is returned to the ocean. The Florida Department of Natural Resources decided that the claw replacement rates were higher than previously reported; to wit; claw regeneration in the sample proved to have grown to harvestable size again within a period of one year. Consequently, the study concluded that a heavily fished population had encouraging rates of de-clawed crab survival and regeneration.

Ibid. Introduction *The Stone Crab, Menippe mercenaria, in the Southwest Florida Fishery* 1979 James R. Sullivan.

Since only the large claw of the crab is taken the rest of the animal is returned to the sea. The market price for these crabs at the dock where the Appellants sell them to distributors has held relatively steady in a range from $4.50 to $7.00 per pound. The harvesting of the crab provides a valid consistent source of income to the Debtors-Appellants. In the pamphlet cited above, published by the Florida Department of Natural Resources Marine Research Laboratory.

The research concluded that the crabs do not show any "mass migrational tendencies," *Ibid.* p. 22.

Consequently, they are always present in the areas previously fished by the crabber. Their harvesting is limited not by availability but rather by the protective statutes in the State of Florida. Therefore, unlike row crop production where the classic risks accepted by farmers played such a crucial role in family production, the harvesting of stone crab is basically limited by statute only. This is not to say that storms would not affect a crabber's catch. This will not affect the availability of the crabs, rather the ability to get to the crabs to harvest them. Such storms, of course, are not a daily occurrence so that the return each crabbing season can, the Appellants contend, be projected far more accurately than row crop production. It must be remembered that the stone crab fishery constitutes the third largest crustacean fishery in Florida with over $2.1 million dollars of income was produced as far back as 1975.

Ibid. Introduction

The author of this study has revised a study originally done in 1975. It is important to provide the Court with this information to show the Court that the harvesting of stone crabs is a very safe economic operation which the studies done by the Florida Marine Research people have shown. Further, it has been established that the stone crab fishery in Florida is a resource which is renewable in the fullest sense of the word.

Ibid. Introduction

Consequently, the Debtors Appellants have proposed to increase their ability to continue their crabbing operations on a larger scale than they are presently doing. To do so, they filed their motion in the Bankruptcy Court for the use of cash collateral earned from the sale of soy beans and

subject to a lien by the COMMODITY CREDIT CORPORATION. The sum of $58,000.00 which is at issue would be used by the Appellants to expand their present crabbing operation. Appellants contend that this expansion would provide the return required to meet the requirements of the COMMODITY CREDIT CORPORATION and return additional cash to the Appellants to allow them to expand their catfish operation on their farm in Valdosta, Georgia and to complete and fund their reorganization plan. To achieve those ends the Appellants propose the following: To enable them to go into deeper waters and in more inclement weather, the Appellants propose to purchase a larger boat for approximately $25,000.00 and provide the COMMODITY CREDIT CORPORATION with a first position lien upon it. This purchase would enable them to become a more efficient and cost effective operation. Of course, upon receipt of the funds, the Appellants would sign a note to the COMMODITY CREDIT CORPORATION for a 10 (ten) year term at an interest rate of at least 9%. This would provide the COMMODITY CREDIT CORPORATION with the full return of its capital with interest return of an additional *$30,156.00 Dollars*. Thirdly, the Appellants propose to purchase a Certificate of Deposit in an amount equal to one annual payment to the COMMODITY CREDIT CORPORATION. At an interest rate of 9%, the Appellants contend that a Certificate of Deposit with a face value of $10,000.00 would provide that protection. Since said Certificate of Deposit shall be assigned to the COMMODITY CREDIT CORPORATION for any annual payment that the Appellant might not be able to make. Appellants offer this protection even though the financial projects set out in Exhibit C in the Appendix (App C) and

incorporated into this document by reference, demonstrate that such a shortfall would probably not occur.

In addition, the Debtors would provide the COMMODITY CREDIT CORPORATION with a replacement lien on the proceeds of the crabbing operation, which is easily verifiable by the dock sales slips. Finally, the Appellants would allocate $13,000.00 to purchase a full complement of 600 traps and other navigational gear such as depth finders and would provide the COMMODITY CREDIT CORPORATION with a first position lien on that equipment.

7. *U.S.C.* 1508 Section (a) - of this crop insurance statute provides that the Corporation may insure the producers of agricultural commodities which are produced in the United States. Section 7 *U.S.C.* 1518 defines agricultural commodities to include:

> aquatical species (including, but not limited to, any species of finfish, mollusk, **CRUSTACEAN**, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment)

The Appellants contend that the phrase in the statute providing that the species must be "reared in a controlled or selected environment" is met due to the fact that in the studies provided above citing the migration patterns of the stone crab. These studies show that the environment in which this animal lives, namely the Gulf of Mexico, and its relatively limited migration patterns in effect provide the controlled *or* selected environment required by Statute. Consequently, the Appellants contend that their crabbing activity would qualify for crop insurance as

provided in the Title 7 of the U.S. Code. Thus, with the addition of crop insurance, the combination of replacement liens and the annual payment of cash that the Appellants would pay the Creditor, the Appellants have removed the usual risks of such liens by the purchase of crop insurance.

The case law in this area provides mainly that the Debtor makes the agreed periodic payment — I*n Re: Rennich* (70 B.R. 69 B.KY D. SD 1987). The Court held that under Section 1205 of the code:

> "it was enough that the Debtors make the agreed periodic $542.00 cash payment to the FDIC, thereby protecting against a decrease in the value of the equipment." *Ibid.* p. 71.

In the present case, the Debtors will take the cash collateral and purchase the boat and equipment and provide the creditor with replacement liens and annual cash payments pursuant to a note. Finally, the Appellants would provide both a Certificate of Deposit in an amount equal to an annual payment on the note and the probability of purchasing crop insurance—I*n Re: Westcamp* 78 Br. 34 (1987 BCSD Ohio) the Court held that the Debtors had provided adequate protection from replacement liens when the Debtors have removed the normal risks of said liens by purchasing crop insurance. However, it must be understood, that even without crop insurance, that the creditor in this case would be fully protected with the $38,000.00 in replacement liens, the Certificate of Deposit and annual payment on the note as provided for in *Rennich Ibid.* and a lien upon the proceeds of the sales of the crab at dockside to the seafood distributors.

In addition to these offerings of collateral, the Debtors would provide the Creditor a copy of Debtors budget projection for the coming year and all amendments thereto, a monthly operating statement which would document, to the penny, the way in which the cash collateral is being used. The COMMODITY CREDIT CORPORATION, as Creditors, would have the right to both visit and inspect the Debtors' operation and have access to the Debtors business records at reasonable mutually agreeable times. Finally, as in *Westcamp* the cash collateral should be held in an interest bearing account in a mutually agreed financial institution.

Taking all the factors into account and applying the standards provided by this Court in *K Mart* v. *Cartier, Inc.*

> That when "ascertaining the plain meaning of a statute", the Court must: "look to the particular statutory language at issue, as well as the language and design of the statute as a whole", p. 291.

The design of the statute is to provide the debtor with the use of cash collateral required to reorganize his family operations and while doing so, provide his creditors with the concept of adequate protection as it applies to Chapter 12 farm reorganizations. In this case, the Appellant has met the plain meaning of the statute and by invoking the science of mathematics to the debtors proposal. It can be seen quite clearly that the Government of the United States i.e. the COMMODITY CREDIT CORPORATION is fully secured through the use of this combination of annual payments, replacement liens, the Certificate of Deposit and the possibility of crop insurance as provided in 7 *U.S.C.* 1508, 1518. Certainly when applying the "plain

meaning" doctrine of this Court to 11 *U.S.C.* 1205(b) (1) and (2), it can be readily seen that the Appellants have in fact met the requirements of the Statute and their use of the funds to reorganize their farming operation is within the purview of this statute.

Wherefore, for the foregoing reasons, it is respectfully prayed that the petition for a writ of certiorari should be granted.

Respectfully submitted.

RICHARD J. TUNESKI

Attorney for the Appellants

This the 27th day of July, 1992.

APPENDIX A

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA VALDOSTA DIVISION

IN RE:	)	
JOSEPH W. WATFORD AND	)	
DORIS F. WATFORD,	)	
Debtors.	)	
JOSEPH W. WATFORD AND	)	
DORIS F. WATFORD,	)	
Plaintiff-Appellants,	)	
vs.	)	C.A. No. 88-10-
	)	VAL (WDO)
UNITED STATES OF AMERICA	)	
Acting Through The	)	
Commodity Credit Corp.,	)	
an Agency of the U.S.	)	
Department of Agriculture,	)	
Defendant-Appellee.	)	

OWENS, Chief District Judge:

Appellants Joseph W. and Doris F. Watford are before this court seeking review of the Bankruptcy Court's denial of their motion for use of cash collateral of Commodity Credit Corporation. Bankruptcy Rule 8013 sets forth the standard of review for appeal: "Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the bankruptcy court to judge the credibility of the witnesses."

Factual Background

Appellants filed a motion in the bankruptcy court requesting the use of cash collateral to finance their reorganization plan. In order to finance their reorganization, the appellants propose to sell approximately 11,000 bushels of soy beans which the appellants have stored in bins as collateral for a series of loans provided to the appellants by the Commodity Credit Corporation ("CCC"). In return for the use of said funds, the appellants will provide the CCC annual payments of six thousand dollars ($6,000.00) per year until the debt is retired. The payments are to be made from income generated from the appellants' stone crabbing operation, a Certificate of Deposit equal to one year's payment, and, finally, an insurance policy which will be taken out by the appellants to provide funds for any shortfall in the appellants' annual payment due to any unforeseen circumstances which might affect the appellants' ability to harvest their traps in the stone crabbing operation.

In addition, the appellants would provide replacement liens on the proceeds of the collateral. The majority of the property subject to the lien would consist of a larger boat and additional crab traps for the appellants' operation. The value of the lien would be approximately $25,000.00.

Discussion

The Bankruptcy Court held a hearing in December, 1987, on appellants' motion for use of cash collateral of the CCC. After hearing the evidence, the bankruptcy court

made the following findings of fact and conclusions of law:

> ...the Court is not opposed to cash collateral orders in Chapter 12 cases. This Court has over the vehement protest of creditors authorized the use of cash collateral. Some orders of the Court in that regard have been appealed. But whenever the Court authorized that, the Court felt that what was being offered as a replacement, be it payments or liens, or whatever it was, did adequately protect the secured creditor.
>
> Here we have collateral that apparently is worth about $60,000 and the debtor wants to take the collateral, turn it into cash collateral, and then spend it, in return for which it proposes to acquire at most about $25,000 worth of personal property that apparently could be made subject to a lien of this creditor, being by way of a new boat and traps.
>
> Apparently, the only property that the debtor now has that could be offered that is not fully liened is a three- or four-hundred dollar boat. The Court is not convinced and hasn't been shown how the offer of a security interest in future crabs to be caught can be perfected in such a way that it would be of any meaningful use to this creditor.
>
> It is a little different from when you are talking about giving a lien on inventory, when you are talking about giving a lien on accounts receiv-

ables, or when you are talking about giving a lien on a crop that is in the ground.

If you want to call it a crop, this is something that is in the sea. It doesn't belong to Mr. Watford anymore than it belongs to the next crabber. The only time that it belongs to him is from the time that it gets caught in his trap until he delivers it, necessarily and in an expeditious fashion, to the purchaser, who is going to pay him and not the Commodity Credit Corporation.

Now this Court is in favor of carrying out the policies that Congress established in Chapter 12 as much as any Court that I am aware of. But if you are going to secure it by proposed payments, there has to be some way of assuring that those payments are going to be made.

And to put a CD for one year's payments or some sort of insurance policy in the case of natural disaster is simply not going to be a substitute or a satisfactory substitute for $35,000 worth of property in hand, which is the difference apparently, maybe $40,000, between the property in hand and the crab traps and the boat which could be purchased.

And even if those could be adequately insured, and there hasn't been any offer of proof or any evidence of how those, which are obviously subject to the forces of nature, could be adequately insured to protect this creditor.

But assuming the creditor could be protected to the extent of $25,000, the Court simply cannot see

> any justification under section 1205 or section 363 or any of the cases that this Court has ever read or any of the cases that have been cited to the Court—Frankly I feel it would be an absolute utter abuse of discretion by this Court to approve the motion.
>
> And not only do I feel that I should not approve it, but that it would be error for me to approve it. And while I am sympathetic to Mr. Watford in his efforts to save his family farm, I cannot see that the Bankruptcy Code authorizes this...I simply do not see that there is any way that I could find that this creditor would be adequately protected by what is being offered.

(Transcript of hearing on debtors' motion to use cash collateral, pp 55-59)

Upon reviewing the record, this court finds that the bankruptcy courts determination that the interest of CCC and the value of the collateral would not be adequately protected by the plan offered by the appellants is not clearly erroneous.

Accordingly, the ruling of the bankruptcy court is **AFFIRMED.**

SO ORDERED, this 29th day of May, 1991.

WILBUR D. OWENS, JR.
UNITED STATES DISTRICT JUDGE

APPENDIX B
IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 91-8661
Non-Argument Calendar

D.C. Docket No. CA-88-10-VAL

IN RE: JOSEPH W. WATFORD and
DORIS F. WATFORD,

Debtors.

JOSEPH W. WATFORD and
DORIS F. WATFORD,

Plaintiffs-Appellants,

versus

UNITED STATES OF AMERICA, Acting
Through the Commodity Credit Corp.,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Georgia

(May 6, 1992)

Before TJOFLAT, Chief Judge, ANDERSON, and BIRCH, Circuit Judges.

PER CURIAM:

On July 28, 1987, appellants Joseph W. and Doris F. Watford ("the Watfords") filed a petition for relief under Chapter 12 of Title 11 of the United States Code. On September 23, 1987, the Watfords filed a motion in the bankruptcy court requesting the use of cash collateral to finance their reorganization plan. The Watfords propose to sell approximately 11,000 bushels of soy beans which they have stored in bins and pledged as security for price support agreements with the Commodity Credit Corporation ("CCC"). As adequate protection for use of CCC's cash collateral, the Watfords propose annual payments to CCC of six thousand dollars to be made from income generated from the Watfords' stone crabbing operation, a certificate of deposit equal to one year's payment, and an insurance policy to provide funds for any shortfall in the Watfords' annual payment due to unforseen circumstances which might affect the Watfords' ability to harvest their traps in the stone crabbing operation. In addition, the Watfords propose replacement liens on the proceeds of personal property to be purchased with the funds, including a larger boat and additional crab traps for the Watfords' operation.

Following an evidentiary hearing on December 9, 1987, the bankruptcy court concluded that the Watfords' offer of adequate protection was insufficient under 11 U.S.C. § 1205 to protect the value of property securing CCC's lien and, accordingly, denied the Watfords' motion to use the cash collateral. On May 29, 1991, the United States District Court for the Middle District of Georgia affirmed this decision. The Watfords appeal from this order.

After a careful review of the record in this case, we conclude that the district court did not err in affirming the

bankruptcy court's denial of the Watfords' motion for use of cash collateral. A reviewing court should not overturn a bankruptcy court's findings regarding the adequacy of protection for a creditor's security interests unless those findings are clearly erroneous. *In Re George Ruggiere Chrysler-Plymouth*, 727 F.2d 1017, 1019 (11th Cir. 1984). In this case, the bankruptcy court determined that the Watfords could not perfect their offer of a security interest in future crabs to be caught in such a way that it would be of any meaningful use to CCC. The court further found that a certificate of deposit for one year's payments or an insurance policy in the case of natural disaster, even were the Watfords able to purchase such a policy, is not a satisfactory substitute for $35,000 or $40,000 worth of property in hand, the difference between the value of the stored soybeans and the crab traps and the boat the Watfords would like to purchase. These findings are not clearly erroneous.

For the foregoing reasons, we affirm the district court's order affirming the bankruptcy court's denial of the Watfords' motion to use CCC's cash collateral.

AFFIRMED.

APPENDIX C

INCOME	
Sales of Stone Crabs	
600 lbs. Week @ $4.50/lb. x 26 wks.	$ 70,200.00
Fishing Pond Sales - 1 year	$ 5,000.00
Sales of Soy Beans	$ 58,000.00
TOTAL PROJECTED INCOME	$133,200.00
EXPENSE	
Fishing pond cost renovation and stocking	$ 12,000.00
Stone Crab Cost Operating Expense	
Fuel	$ 6,720.00
Bait	5,000.00
License	25.00
Boat Maintenance	1,800.00
Gas refrig. unit	500.00
Salaries, et. al.	4,800.00
Crab traps & Navigational aids	13,000.00
Accounting	500.00
TOTAL	$ 32,345.00

Income available for note payment and capital costs	
Note Payment to Commodity Credit Corporation	
$58,000.00 at 9 - 10 years	$ 9,000.00
Purchase of boat	25,000.00
Purchase of C.D.	10,000.00
	$ 44,000.00
Projected net income	$ 56,855.00

IN THE SUPREME COURT OF THE UNITED STATES

IN RE:	)
JOSEPH W. WATFORD AND	)
DORIS F. WATFORD,	)
Debtors.	)
JOSEPH W. WATFORD AND	)
DORIS F. WATFORD,	)
Plaintiff-Appellants,	)
vs.	)
UNITED STATES OF AMERICA	)
Acting Through The	)
COMMODITY CREDIT CORP.,	)
an Agency of the U.S.	)
Department of Agriculture,	)
Defendant-Appellee.	)

CERTIFICATE OF SERVICE

I Richard T. Tuneski, attorney for the Appellant herein, certify that I have served a copy of the foregoing petition for writ of Certiorari on July 27, 1992.

Attorney for this action, by making the copy on July 27, 1992, by United State Mail, postage prepaid to LILIAN LOCKARY, Assistant U.S. Attorney, Middle District of Georgia, Box U, United States Court House, Macon, Georgia 30 , phone (912) 752-3511, last known address. Also sent to Solicitors General Office, Department of Justice, Washington, D.C. 20530 and Walter W. Kelley, Trustee, Post Office Drawer 1097, Albany Georgia 31702, phone (912) 888-2257.

This the 27th day of July, 1992.

RICHARD J. TUNESKI, Attorney

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Suite 207-126
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